



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,951	10/06/2005	Owain Llyrr Parri	MERCK-3078	6831
23599 7590 02/02/2009 MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201				
EXAMINER BRIGGS, NATHANAIL R				
ART UNIT		PAPER NUMBER		
2871				
MAIL DATE		DELIVERY MODE		
02/02/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,951

Applicant(s)

PARRI ET AL.

Examiner

NATHANAE L. BRIGGS

Art Unit

2871

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.
2. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
3. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.
4. Group I, claim(s) 1-10 and 12-26, drawn to an IPS LCD.
5. Group II, claim(s) 11, drawn to a compensator.
6. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I recites specific structural details regarding an in-plane switching LCD having certain polarizer, compensator, and substrate structures, while Group II recites a compensator structure.
7. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.
8. If Applicant elects Group I, the species are as follows:

Species set A: Select one of the following claimed configurations:

- **A1** - representing configuration 1 of *claims 7, 19, and 20*;
- **A2** - representing configuration 2 of *claims 7 and 19*;
- **A3** - representing configuration 3 of *claims 7 and 19*;

- **A4** - representing configuration 4 of *claims 7, 19 and 21*;
- **A5** - representing configuration 5 of *claims 7 and 19*;
- **A6** - representing configuration 6 of *claim 7*;
- **A7** - representing configuration 7 of *claim 7*;
- **A8** - representing configuration 8 of *claim 7*;
- **A9** - representing configuration 9 of *claim 7*;
- **A10** - representing configuration 10 of *claim 7*;
- **A11** - representing configuration 11 of *claim 7*;
- **A12** - representing configuration 12 of *claim 7*;
- **A13** - representing configuration 13 of *claims 7 and 19*;
- **A14** - representing configuration 14 of *claims 7 and 19*;
- **A15** - representing configuration 4 of *claims 7, 19 and 22*;
- **A16** - representing configuration 4 of *claims 7, 19 and 23*;
- **A17** - representing configuration 5 of *claims 7 and 19*;
- **A18** - representing configuration 18 of *claim 7*;
- **A19** - representing configuration 19 of *claim 7*;
- **A20** - representing configuration 20 of *claim 7*;
- **A21** - representing configuration 21 of *claim 7*;
- **A22** - representing configuration 22 of *claim 7*;
- **A23** - representing configuration 23 of *claim 7*;
- **A24** - representing configuration 24 of *claim 7*;

9. Because claim 8 recites several mutually exclusive species depending on the specific configuration of claim 7, Applicant must select pertinent configurations from claim 8 as follows:

Species set B (with components **B1 - B8**, representing configurations 1 to 8 of claim 8);

- if Applicant chooses species **A1**, please select one of species **B1-B2**
- if Applicant chooses species **A4**, please select one of species **B3-B4**
- if Applicant chooses species **A15**, please select one of species **B5-B6**
- if Applicant chooses species **A16**, please select one of species **B7-B8**

10. Claim 9 and 10 recite specific structures that are mutually exclusive with certain configurations of species A and species B. Therefore, Applicant must select one of the following based on Applicant's selection of Species A & B:

Species set C (depending on Applicant's selection of species **A & B**) –

C1. (pertaining to species **A1-A4, A7, A9, A10, A12-A16, A18, A19, A22, and A24**) – That the +A plate and +C plate are situated on the same side of the switchable LC cell (*claim 9*).

11. Applicant is required, in reply to this action, to elect a single species (one species from each of Species sets A, B, and C, above) to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

12. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

13. The following claim(s) are generic: Claims not referred to above.

14. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Each of the configurations is a non-obvious variant of one another based on the prior art currently of record.

15. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

16. The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

17. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHANAEL R. BRIGGS whose telephone number is (571)272-8992. The examiner can normally be reached on 9 AM - 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571) 272-1787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/551,951

Page 7

Art Unit: 2871

/Andrew Schechter/

Primary Examiner, Art Unit 2871